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Philip J. Quenzi

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EXAMINER

GREENHUT, CHARLES N

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/796,619

Applicant(s)

QUENZI ET AL.

Examiner

Charles N. Greenhut

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25,27-29,31-35 and 37-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25,27-29,31-35 and 37-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/20/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

I. Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 6 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.1. By definition, axes can not be coaxial.

II. Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 46-54 are rejected under 35 U.S.C. 102(b) as being anticipated by HUMES (US 3,734,538).

1.1. With respect to claim 46, HUMES teaches a frame (18), a deck attached to the frame (floor of 18), front and rear axles mounted to the frame (20)/(22)/(24)/(26), at least one wheel at opposite ends of the axles supporting the frame above ground (46), the front axle comprising a steerable axle mounted to an axle base (20) that is pivotable about a vertical axis (at 92), a hitching member (at 12) extending forward from the frame pivotally attached to a front portion of the frame, having a connecting member

the definition of coaxial means having same axis, so is he saying the axes are in same line?

Axes can't have an axis they are infinite

✓ I'm not sure I'd say this but rather we should point out that if this were true, then the born and rear supports would be mount in the same point rather than the rear support being at the rear end. Make there should be a 112, 1st or drawing objection too? It appears the drawing (and more than likely the spec too) doesn't support this
replacing coaxial w/ parallel enables the rest of his claim language to make sense

(56)/(80') and pivotable about a second vertical axis spaced forward from the first vertical axis (72), the hitching member movably attached to the axle base forward of the vertical axes such that pivotal movement of the hitching member causes pivotal movement of the axle about the first vertical axis (Fig. 2).

- 1.2. With respect to claim 47, HUMES teaches all elements of claim 46 and additionally teaches a hitching member movably attached to the axle base via a mounting member of the hitch extending through a slot in the base, the mounting member urging the axle base to pivot moving along the slot when the hitching member pivots about the second axis (Col. 2 Li. 45-50).
- 1.3. With respect to claim 48, HUMES additionally teaches the hitching member pivotable about the second axis via an actuator (16).
- 1.4. With respect to claim 49, HUMES additionally teaches the hitching member (at 12) vertically adjustable with respect to the frame (18).
- 1.5. With respect to claim 50, HUMES additionally teaches the hitching member (at 12) vertically adjustable via an acutuator (16).
- 1.6. With respect to claim 51, HUMES additionally teaches a rear axle that is steerable about a third vertical axis (Fig. 2).
- 1.7. With respect to claim 52, HUMES additionally teaches a rear axle that pivots, in response to the pivoting of the front axle, in a direction opposite the front axle (Fig. 2).
- 1.8. With respect to claim 53, HUMES additionally teaches a rear axle, interconnected with the front axle via at least one connecting member, the connecting member urging

the rear axle to pivot in the second direction when the front axle pivots in the first, opposite, direction (Fig. 2).

- 1.9. With respect to claim 54, HUMES additionally teaches a center axle (22)/(24) positioned between the front and rear axles having at least one wheel (46) on each end.

III. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this

Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-9, 11-12, 24-25, 27-29, 31-35 and 37-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over SCHEELE (US 3,743,044) in view of KISHI (US 4,638,887 A) and further in view of PEWTHERS (US 3,485,400).

- 1.1. With respect to claim 1, SCHEELE teaches a frame, at least two axles mounted to the frame (at 26/28), each axle having at least one wheel (27) at opposite ends, the wheels and axles supporting the frame above ground, a deck (22), the deck pivotally mounted to the frame via a first and second support (30)/(32)/(38)/(40), the supports are independently operable to raise and lower respective portions of the deck relative to the frame, the deck is pivotable with respect to the frame about an axis extending longitudinally along the deck, the deck is pivotable with respect to the frame about an axis extending laterally across the deck (See Figs. 14-16). SCHEELE additionally

see next page

teaches, a pair of rear supports (36)/(34)/(42)/(44) pivotally mounted to the frame, a pivot member at the upper end (80)/(92). SCHEELE fails to teach a deck slidable longitudinally relative to the pivot members and an extendable and retractable boom pivotally mounted to the frame. KISHI teaches an extendible and retractable boom. It would have been obvious to one of ordinary skill in the art to modify SCHEELE with the boom of KISHI in order to increase rigidity and load capacity. PEWTERS teaches a deck (30) slidable longitudinally relative to the pivot members (50), the deck being slidable when the boom is extending or retracted. It would have been obvious to one of ordinary skill in the art to modify SCHEELE in view of KISHI with the slidable deck of PEWTERS in order to move the load along the longitudinal axis of the deck.

1.2. With respect to claim 2, SCHEELE fails to teach a deck movable along the longitudinal axis, pivotable along the lateral axis, and engageable with the ground. PEWTERS teaches a deck movable along the longitudinal axis, pivotable along the lateral axis, and engageable with the ground (Fig. 1-5). It would have been obvious to one of ordinary skill in the art to modify SCHEELE in view of KISHI with the slidable, pivotal and ground engaging deck of PEWTERS in order to move the load along the longitudinal axis of the deck and aid in unloading of cargo.

1.3. With respect to claim 3, SCHEELE additionally teaches a deck pivotable about the longitudinal axis irrespective of a degree of pivotable movement about the lateral axis.

1.4. With respect to claim 4, SCHEELE fails to teach a deck slidable along the longitudinal axis irrespective of a degree of pivotable movement about the lateral axis. PEWTHERS teaches a deck slidable along the longitudinal axis irrespective of a degree of pivotable movement about the lateral axis (Fig. 1-5). It would have been obvious to one of ordinary skill in the art to modify SCHEELE in view of KISHI with the slidable deck of PEWTHERS in order to move the load along the longitudinal axis of the deck.

1.5. With respect to claim 5, SCHEELE additionally teaches a deck pivotable about at least two axes relative to the boom (38)/(40)/(42)(44).

1.6. With respect to claim 6, *as best understood by examiner*, SCHEELE additionally teaches the first and second lateral axes are *parallel*.

1.7. With respect to claim 7, SCHEELE additionally teaches the first and second lateral axes are non-coaxial.

1.8. With respect to claim 8, SCHEELE additionally teaches supports mounted to pivotally mounted brackets (50).

1.9. With respect to claim 9, SCHEELE additionally teaches supports attached to opposite sides of the deck centerline (36)/(34)/(42)/(44), and each support independently extendable and retractable to cause the deck to pivot about the longitudinal axis.

1.10. With respect to claim 11, SCHEELE fails to teach the deck is slidable relative to the second support when the rear supports are pivoted. PEWTHERS teaches a deck that is slidable relative to the second support when the rear supports are pivoted. It would

The problem is that we
must reject what he
claims whether or not we
think it is right or not.

have been obvious to one of ordinary skill in the art to modify SCHEELE in view of KISHI with the deck that is slidable when the rear supports are pivoted of PEWTHERS in order to allow both longitudinal positioning of cargo and engagement of the deck with the ground in order to facilitate the loading and unloading of cargo.

1.11. With respect to claim 12, SCHEELE additionally teaches a second support pivotable about the lateral axis at the frame in response to at least one actuator to vertically adjust a portion of the deck vertically relative to the frame.

1.12. With respect to claim 24, SCHEELE fails to teach a deck that includes an adjustable platform portion at the end of the deck, the platform being pivotable about a lateral axis. PEWTHERS teaches a deck that includes an adjustable platform portion at the end of the deck, the platform being pivotable about a lateral axis. It would have been obvious to one of ordinary skill in the art to modify SCHEELE in view of KISHI with adjustable platform of PEWTHERS in order to retain the load on the deck and facilitate loading and unloading cargo from the ground.

1.13. With respect to claim 25, SCHEELE teaches a frame, at least two axles mounted to the frame (at 26/28), each axle having at least one wheel at opposite ends (27), the wheels and axles supporting the frame above ground, a deck (22), the deck pivotally mounted to the frame via a boom member (38)/(40)/(42)/(44) and at least one rear support (34)/(36) the boom member pivotally connected a the frame and at a forward portion of the deck, the rear support is pivotally mounted at a rear portion of the frame and pivotally attached to the deck, the support pivotable relative to the frame about a lateral pivot axis, the deck pivotable about a longitudinal axis, the boom

pivotable about an axis extending laterally across the deck to vertically adjust the forward portion of the deck relative to the frame, the boom member pivoting about a laterally extending axis. SCHEELE fails to teach an extendable and retractable boom, the boom being pivotable via a first actuator attached to the boom and the frame member, the boom being extendable and retractable via a second actuator, and the deck sliding with respect to a rear support. KISHI teaches an extendable and retractable boom, the boom being pivotable via a first actuator attached to the boom and the frame member, the boom being extendable and retractable via a second actuator. It would have been obvious to one of ordinary skill in the art to modify SCHEELE with the actuated extendable and retractable boom of KISHI in order to allow the deck to both pivot about the lateral axis and move longitudinally with respect to the frame. PEWTHERS teaches the deck sliding with respect to a rear support. It would have been obvious to one of ordinary skill in the art to modify SCHEELE in view of KISHI with the slidable deck of PEWTHERS in order to move the load along the longitudinal axis of the deck.

1.14. With respect to claim 27, SCHEELE additionally teaches the forward portion of the deck is pivotally attached to an end of the boom via a multi-axis connection that facilitates pivotal movement of the forward portion of the deck about at least two axes (Fig. 5).

1.15. With respect to claim 28, SCHEELE fails to teach a boom comprising a telescopic member having a first member pivotally attached to the frame and a second member pivotally attached to the deck, the second member extendable relative to the first

member by the second actuator to longitudinally adjust the deck relative to the frame. KISHI teaches a boom comprising a telescopic member having a first member pivotally attached to the frame and a second member pivotally attached to the deck, the second member extendable relative to the first member by the second actuator to longitudinally adjust the deck relative to the frame. It would have been obvious to one of ordinary skill in the art to modify SCHEELE with the telescoping boom, pivotally attached to the deck and the frame of KISHI in order to allow the deck to maintain a generally horizontal orientation while moving vertically and longitudinally with respect to the frame.

1.16. With respect to claim 29, SCHEELE fails to teach the deck is longitudinally movable and pivotable about the lateral axis to move the deck in contact with the ground. PEWTHERS teaches a deck, longitudinally movable and pivotable about the lateral axis to move the deck in contact with the ground. It would have been obvious to one of ordinary skill in the art to modify SCHEELE in view of KISHI with the deck, longitudinally movable and pivotable about the lateral axis of PEWTHERS in order to facilitate the loading and unloading of cargo.

1.17. With respect to claim 31, SCHEELE additionally teaches the rear support pivotally mounted at a mounting bracket (50) at a rear portion of the frame, the rear support pivotable relative to the bracket about a second lateral axis.

1.18. With respect to claim 32, SCHEELE additionally teaches a bracket (50) fixedly attached to the boom (40) the bracket and a rear support pivotable about a second lateral axis as the boom member is pivoted about the axis.

- 1.19. With respect to claim 33, SCHEELE additionally teaches the rear support (34)/(36) is extendable and retractable to vertically adjust the rear portion of the deck relative to the frame.
- 1.20. With respect to claim 34, SCHEELE additionally teaches the rear supports comprise a pair of supports (34)/(36) positioned on opposite sides of the frame and deck, the supports independently extendable and retractable to cause the deck to pivot about the longitudinal axis.
- 1.21. With respect to claim 35, SCHEELE teaches a frame, at least two axles mounted to the frame (at 26/28), each axle having at least one wheel (27)/(29) at opposite ends, the wheels and axles supporting the frame above ground, a deck (22), the deck pivotally mounted to the frame, the deck is pivotal relative to the frame about both a lateral and longitudinal axis (Fig. 14/16), the deck pivotable about at least two pivot axes, the boom pivoted to move a forward portion of the deck (Fig. 14), rearward supports (34)/(36), the rearward supports are pivotally mounted at a rearward portion of the frame at respective and opposite sides of a centerline of the frame (80), the rearward supports are pivotable relative to the frame portion about a lateral axis to vertically adjust the rearward portion of the deck relative to the frame, the rearward supports are independently extendable and retractable to pivot the deck about the longitudinal axis (Fig. 16). SCHEELE fails to extendable and retractable boom pivotally mounted to the frame, the boom extending and retracted to longitudinally move the deck, the rearward supports including a slide member, the deck pivotally mounted thereto. KISHI teaches an extendible and retractable boom. It would have

been obvious to one of ordinary skill in the art to modify SCHEELE with the boom of KISHI in order to increase rigidity and load capacity. PEWTHERS teaches a slide member, the deck attached thereto (40). It would have been obvious to one of ordinary skill in the art to modify SCHEELE in view of KISHI with the slide member of PEWTHERS in order to move the load along the longitudinal axis of the deck.

1.22. With respect to claim 37, SCHEELE fails to teach the slide member slides along the deck as the rearward supports are pivoted about the lateral axis. PEWTHERS teaches the slide member (40) slides along the deck as the rearward supports are pivoted about the lateral axis. It would have been obvious to one of ordinary skill in the art to modify SCHEELE in view of KISHI with the slidable deck of PEWTHERS in order position the load longitudinally with respect to the frame.

1.23. With respect to claim 38, SCHEELE additionally teaches the axes non-coaxial.

1.24. With respect to claim 39, SCHEELE additionally teaches the pair of rear supports pivotally mounted to brackets (50), pivotal about a first lateral axis when the boom (44) pivots.

1.25. With respect to claim 40, SCHEELE additionally teaches the rear supports fixed relative to the boom member and pivotable about the first lateral axis with the boom.

1.26. With respect to claim 41, SCHEELE additionally teaches rearward supports pivotable about a second lateral axis. SCHEELE fails to teach the supports pivotable to move the deck rearwardly toward and into contact with the ground. KISHI teaches rearward supports pivotable about a second lateral axis to move the deck toward the ground. It would have been obvious to one of ordinary skill in the art to modify

SCHEELE with the pivotable rearward supports of KISHI in order to allow the deck to move toward the ground. While KISHI makes no specific mention of the deck making contact with the ground, the deck in KISHI would come into contact with the ground if it were of sufficient size to do so. It would have been obvious to one of ordinary skill in the art to make the deck of adequate dimensions to contact the ground if that feature is desired.

- 1.27. With respect to claim 42, SCHEELE additionally teaches a pair of rearward supports comprising a telescopic support (34)/(36), extendable and retractable via a pair of actuators positioned along the rearward support.
 - 1.28. With respect to claim 43, SCHEELE additionally teaches a pair of rearward supports pivoted about a second lateral axis via second actuators (32)/(34).
 - 1.29. With respect to claim 44, SCHEELE fails to teach rearward supports, pivotable about the lateral axis at the frame to move and lower the deck relative to the frame.
 - 1.30. With respect to claim 45, SCHEELE additionally teaches the rearward supports are pivotable in unison (Fig. 11-13).
2. Claims 13-16, and 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over SCHEELE in view of KISHI and PEWTERS and further in view of HUMES (US 3,734,538).
- 2.1. With respect to claim 13, SCHEELE fails to teach front and rear steerable axles. HUMES teaches front and rear steerable axles. It would have been obvious to one of ordinary skill in the art to modify SCHEELE in view of KISHI and PEWTERS with

the front and rear steerable axles of HUMES in order to improve vehicle maneuverability by decreasing the vehicle turn radius.

2.2. With respect to claim 14, SCHEELE fails to teach a rear steerable axle that is turned in a direction opposite to that of the front axle when the front axle is turned. HUMES teaches a rear steerable axle that is turned in a direction opposite to that of the front axle, when the front axle is turned. It would have been obvious to one of ordinary skill in the art to modify SCHEELE in view of KISHI and PEWTHERS with the a rear steerable axle that is turned in a direction opposite to that of the front axle, when the front axle is turned, of HUMES in order to improve vehicle maneuverability by decreasing the vehicle turn radius.

2.3. With respect to claim 15, SCHEELE fails to teach a front axle mechanically connected to the rear axle such that pivotal movement of the front axle causes pivotal movement of the rear axle in the opposite direction. HUMES teaches a front axle mechanically connected to the rear axle such that pivotal movement of the front axle causes pivotal movement of the rear axle in the opposite direction. It would have been obvious to one of ordinary skill in the art to modify SCHEELE in view of KISHI and PEWTHERS with the front axle mechanically connected to the rear axle such that pivotal movement of the front axle causes pivotal movement of the rear axle in the opposite direction, of HUMES in order to improve vehicle maneuverability by decreasing the vehicle turn radius.

2.4. With respect to claim 16, SCHEELE fails to teach a front axle mechanically connected to the rear axle via an elongated member extending between the axles.

HUMES teaches a front axle mechanically connected to the rear axle via elongated member extending between the axles. The elongated members in HUMES (Fig. 2 (114) and (178)) connect intermittent axles and do not connect the front directly with the rear as applicant does. The elongated member however is essentially the same in structure and in function as the elongated member disclosed by applicant. Removing the steering capabilities of the intermittent wheels in HUMES does not patentably distinguish applicants invention. It would have been obvious to one of ordinary skill in the art to modify SCHEELE in view of KISHI and PEWTERS with elongated member extending between the axles of HUMES in order to cause the rear axle to pivot in a direction opposite to the front axle thereby improving vehicle maneuverability by decreasing the vehicle turn radius.

2.5. With respect to claim 19, SCHEELE fails to teach a trailer hitch pivotable to steer the front axle, pivotally attached to the frame about a vertical axis. HUMES teaches a trailer hitch pivotable to steer the front axle, pivotally attached to the frame about a vertical axis. It would have been obvious to one of ordinary skill in the art to modify SCHEELE in view of KISHI and PEWTERS with the pivotable trailer hitch of HUMES in order to tug and steer the vehicle.

2.6. With respect to claim 20, SCHEELE fails to teach a front axle assembly, pivotable about a vertical axis to steer the trailer. HUMES teaches a front axle assembly, pivotable about a vertical axis to steer the trailer. It would have been obvious to one of ordinary skill in the art to modify SCHEELE in view of KISHI and PEWTERS with the pivotable front axis assembly of HUMES in order to steer the vehicle.

- 2.7. With respect to claim 21, SCHEELE fails to teach a hitch extending forwardly from the first pivotal axis, movably connected to a forward portion of the front axle assembly. HUMES teaches a hitch extending forwardly from the first pivotal axis, movably connected to a forward portion of the front axle assembly. It would have been obvious to one of ordinary skill in the art to modify SCHEELE in view of KISHI and PEWTERS with the forwardly extending hitch of HUMES in order to tug and steer the vehicle.
- 2.8. With respect to claim 22, SCHEELE fails to teach the vertical pivot axis of the hitch is positioned forward of the vertical pivot axis of the front axle assembly. HUMES teaches a vertical pivot axis of the hitch positioned forward of the vertical pivot axis of the front axle assembly. It would have been obvious to one of ordinary skill in the art to modify SCHEELE in view of KISHI and PEWTERS with the vertical pivot axis of the hitch positioned forward of the vertical pivot axis of the front axle assembly of HUMES in order to improve vehicle maneuverability by decreasing the turn radius of the towing vehicle and cargo carrying vehicle assembly.
3. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over SCHEELE in view of PEWTERS and KISHI , further in view of HUMES, and further in view of RICHNOW (US 3,096,995).
- 3.1. With respect to claim 17 and 18, SCHEELE fails to teach at least one center axle, the center axle (claim 17) or the front and rear axles (claim 18) vertically adjustable relative to the frame between a lowered, load-bearing, position and a raised, non-load-bearing position. RICHNOW teaches at least one center axle, and an axle lift

mechanism for vertically adjusting the axis relative to the frame between a lowered, load-bearing, position and a raised, non-load-bearing position. It would have been obvious to one of ordinary skill in the art to modify SCHEELE in view of KISHI and PEWTERS with the center axle and axle lift mechanisms of RICHNOW in order to decrease the rate of tire wear and/or enhance maneuverability and/or traction.

4. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over SCHEELE in view of KISHI and PEWTERS, and further in view of KALLANSRUDE (US 5,110,153).

4.1. With respect to claim 23, SCHEELE fails to teach a deck comprising a conveyer.

KALLANSRUDE teaches a deck comprising a conveyer. It would have been obvious to one of ordinary skill in the art to modify SCHEELE in view of KISHI and PEWTERS with the deck comprising a conveyer of KALLANSRUDE in order to facilitate loading, unloading and maneuvering cargo.

5. Claims 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over HUMES in view of RICHNOW. *(These claims were initially, inadvertently, rejected as "SCHEELE in view of RICHNOW." Since applicant did not make any arguments directed to this mistake and since this does not change the substantive nature of the rejections, finality is remains appropriate.)*

5.1. With respect to claim 55, HUMES fails to teach front, rear and center axles that are vertically adjustable relative to the frame. RICHNOW teaches front, rear and center axles that are vertically adjustable relative to the frame (Fig. 1). It would have been obvious to one of ordinary skill in the art to modify HUMES with the axle lifts of

This implies the response was non-responsive if he did not reply to our objections

It should have been clear that the primary reference should have been HUMES since this is the reference used to reject claim 54.

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RICHNOW in order to decrease the rate of tire wear and/or enhance maneuverability and/or traction.

5.2. With respect to claim 56, HUMES fails to teach a center axle that is raisable into a non-load-bearing position. RICHNOW teaches a center axle that is raisable into a non-load-bearing position (Fig. 1). It would have been obvious to one of ordinary skill in the art to modify HUMES with the axle lifts of RICHNOW in order to decrease the rate of tire wear and/or enhance maneuverability and/or traction.

5.3. With respect to claim 57, HUMES fails to teach a front and rear axle that is raisable into a non-load-bearing position. RICHNOW teaches a front and rear axle that is raisable into a non-load-bearing position (Col. 2 Li. 31-33). It would have been obvious to one of ordinary skill in the art to modify HUMES with the axle lifts of RICHNOW in order to decrease the rate of tire wear and/or enhance maneuverability and/or traction.

IV. Response to Applicants Arguments Entered on 10/20/05

1. Applicant argues that rejections under 35 U.S.C. 102(b) and 103(a) should be withdrawn because the prior art references alone, or in combination, fail to teach the claimed invention.
 - 1.1. As discussed above the claims 1-9, 11-25, 27-29, 31-35 and 37-57 as amended on 10/20/05, fail to distinguish over the prior art.
2. Applicant argues that because of the stark contrast between the references there would be no motivation to combine the teachings of SHEELE and PEWTHERS.

Respond to the 102 rejection on page 19 we argues that Scheele does not teach the substantially support rod and on page 20 we argues that Scheele does not have a retractable/extendable beam

7.37

2.1. While SHEELE and PEWTERS disclose different apparatus, both pertain to the art of trucks having movable cargo storage areas. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art. See *In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457-58 (Fed. Cir. 1998). In the case of the present application, the motivation to combine the references comes from that fact that, as discussed above, doing so would result in numerous beneficial features such as, the ability to extend the platform over an area that is not traversable by the trailer while at the same time compensating for uneven terrain.

3. Applicant argues that combination of the references would not result in a functional trailer.

3.1. "The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference.... Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art." *In re Keller*, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). See also *In re Sneed*, 710 F.2d 1544, 1550, 218 USPQ 385, 389 (Fed. Cir. 1983) ("[I]t is not necessary that the inventions of the references be physically

Charles, you are just repeating case law and not responding to his arguments.

applicant's pg 20
"functional"

combinable to render obvious the invention under review."); and In re Nievelt, 482 F.2d 965, 179 USPQ 224, 226 (CCPA 1973) ("Combining the teachings of references does not involve an ability to combine their specific structures.")

3.2. Furthermore, the fact that SCHEELE uses a ball and socket connection and center brackets would not preclude one of ordinary skill in the art from modifying the connections to accommodate the sliding platform of PEWTHERS since all that would be required would be the addition of a sliding connection to the platform-side of the connections. Likewise, the fact that PEWTHERS uses a welded connection, thereby restricting pivotal movement about the longitudinal axis would not preclude one of ordinary skill in the art from modifying the weld to allow pivotal movement about the longitudinal axis since all that would be required would be replacing the weld with a hinge or pivot.

4. Applicant argues HUMES does not teach a hitching member as set forth in claim 46.

→ Humes was not used to teach a hitching member.

4.1. As discussed above, in addition to other elements, HUMES discloses, an axle base (20) that is pivotable about a vertical axis (at 92), a hitching member (connecting the cab (12) and trailer) extending forward from the frame pivotally attached to a front portion of the frame (Fig. 2), having a connecting member (56)/(80') and pivotable about a second vertical axis (at 72) spaced forward from the first vertical axis (at 92).

Accordingly, Applicant's arguments filed on 10/20/05 have been fully considered but they are not persuasive.

Pewthers was not meant to be bodily incorporated into Scheele but rather the teachings of Pewthers were used to modify Scheele.

You didn't respond to the argument. If Humes was used to teach something else say so.

move to before arguments

V. Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
2. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.
4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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